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HOUSE BILL NO. 1945

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Health, Welfare and Institutions

on \_\_\_\_\_)

(Patron Prior to Substitute--Delegate Durant)

A BILL to amend and reenact §§ 2.2-5206, 37.2-308, and 37.2-605 of the Code of Virginia and to repeal § 37.2-507 of the Code of Virginia, relating to Department of Behavioral Health and Developmental Services; data reporting on children and adolescents; reporting requirements.

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-5206, 37.2-308, and 37.2-605 of the Code of Virginia are amended and reenacted as follows:**

**§ 2.2-5206. Community policy and management teams; powers and duties.**

The community policy and management team shall manage the cooperative effort in each community to better serve the needs of troubled and at-risk youths and their families and to maximize the use of state and community resources. Every such team shall:

1. Develop interagency policies and procedures to govern the provision of services to children and families in its community;
2. Develop interagency fiscal policies governing access to the state pool of funds by the eligible populations including immediate access to funds for emergency services and shelter care;
3. Establish policies to assess the ability of parents or legal guardians to contribute financially to the cost of services to be provided and, when not specifically prohibited by federal or state law or regulation, provide for appropriate parental or legal guardian financial contribution, utilizing a standard sliding fee scale based upon ability to pay;
4. Coordinate long-range, community-wide planning that ensures the development of resources and services needed by children and families in its community including consultation on the development of a community-based system of services established under § 16.1-309.3;

- 27           5. Establish policies governing referrals and reviews of children and families to the family  
28 assessment and planning teams or a collaborative, multidisciplinary team process approved by the  
29 Council, including a process for parents and persons who have primary physical custody of a child to refer  
30 children in their care to the teams, and a process to review the teams' recommendations and requests for  
31 funding;
- 32           6. Establish quality assurance and accountability procedures for program utilization and funds  
33 management;
- 34           7. Establish procedures for obtaining bids on the development of new services;
- 35           8. Manage funds in the interagency budget allocated to the community from the state pool of funds,  
36 the trust fund, and any other source;
- 37           9. Authorize and monitor the expenditure of funds by each family assessment and planning team  
38 or a collaborative, multidisciplinary team process approved by the Council;
- 39           10. Submit grant proposals that benefit its community to the state trust fund and enter into contracts  
40 for the provision or operation of services upon approval of the participating governing bodies;
- 41           11. Serve as its community's liaison to the Office of Children's Services, reporting on its  
42 programmatic and fiscal operations and on its recommendations for improving the service system,  
43 including consideration of realignment of geographical boundaries for providing human services;
- 44           12. Collect and provide uniform data to the Council as requested by the Office of Children's  
45 Services in accordance with subdivision D 16 of § 2.2-2648;
- 46           13. Review and analyze data in management reports provided by the Office of Children's Services  
47 in accordance with subdivision D 18 of § 2.2-2648 to help evaluate child and family outcomes and public  
48 and private provider performance in the provision of services to children and families through the  
49 Children's Services Act program. Every team shall also review local and statewide data provided in the  
50 management reports on the number of children served, children placed out of state, demographics, types  
51 of services provided, duration of services, service expenditures, child and family outcomes, and  
52 performance measures. Additionally, teams shall track the utilization and performance of residential  
53 placements using data and management reports to develop and implement strategies for returning children

54 placed outside of the Commonwealth, preventing placements, and reducing lengths of stay in residential  
55 programs for children who can appropriately and effectively be served in their home, relative's homes,  
56 family-like setting, or their community;

57 14. Administer funds pursuant to § 16.1-309.3;

58 15. Have authority, upon approval of the participating governing bodies, to enter into a contract  
59 with another community policy and management team to purchase coordination services provided that  
60 funds described as the state pool of funds under § 2.2-5211 are not used;

61 ~~16. Submit to the Department of Behavioral Health and Developmental Services information on~~  
62 ~~children under the age of 14 and adolescents ages 14 through 17 for whom an admission to an acute care~~  
63 ~~psychiatric or residential treatment facility licensed pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter~~  
64 ~~4 of Title 37.2, exclusive of group homes, was sought but was unable to be obtained by the reporting~~  
65 ~~entities. Such information shall be gathered from the family assessment and planning team or participating~~  
66 ~~community agencies authorized in § 2.2-5207. Information to be submitted shall include:~~

67 a. ~~The child or adolescent's date of birth;~~

68 b. ~~Date admission was attempted; and~~

69 c. ~~Reason the patient could not be admitted into the hospital or facility;~~

70 17. Establish policies for providing intensive care coordination services for children who are at  
71 risk of entering, or are placed in, residential care through the Children's Services Act program, consistent  
72 with guidelines developed pursuant to subdivision D 22 of § 2.2-2648; and

73 ~~18-17.~~ Establish policies and procedures for appeals by youth and their families of decisions made  
74 by local family assessment and planning teams regarding services to be provided to the youth and family  
75 pursuant to an individual family services plan developed by the local family assessment and planning  
76 team. Such policies and procedures shall not apply to appeals made pursuant to § 63.2-915 or in  
77 accordance with the Individuals with Disabilities Education Act or federal or state laws or regulations  
78 governing the provision of medical assistance pursuant to Title XIX of the Social Security Act.

79 **§ 37.2-308. Data reporting on children and adolescents.**

80 A. The Department shall collect and compile the following data:

81 1. The total number of licensed ~~and staffed~~ mental health inpatient ~~acute care~~ psychiatric beds for  
82 children ~~under the age of 14~~ and adolescents ~~ages 14 through 17~~; and

83 2. The total number of licensed ~~and staffed~~ psychiatric residential treatment facility beds for  
84 children ~~under the age of 14~~ and adolescents ~~ages 14 through 17~~ in residential facilities licensed pursuant  
85 to this title, excluding group homes.

86 B. ~~The Department shall collect and compile data obtained from the community policy and~~  
87 ~~management team pursuant to subdivision 16 of § 2.2-5206 and each community services board or~~  
88 ~~behavioral health authority pursuant to § 37.2-507 and subdivision 17 of § 37.2-605. The Department shall~~  
89 ~~ensure that the data reported is not duplicative.~~

90 C. The Department shall report this data on a quarterly basis to the Chairmen of the House  
91 Committee on Appropriations and the Senate Committee on Finance and Appropriations and to the  
92 Virginia Commission on Youth.

93 **§ 37.2-605. Behavioral health authorities; powers and duties.**

94 Every authority shall be deemed to be a public instrumentality, exercising public and essential  
95 governmental functions to provide for the public mental health, welfare, convenience, and prosperity of  
96 the residents and such other persons who might be served by the authority and to provide behavioral health  
97 services to those residents and persons. An authority shall have the following powers and duties:

98 1. Review and evaluate public and private community mental health, developmental, and substance  
99 abuse services and facilities that receive funds from the authority and advise the governing body of the  
100 city or county that established it as to its findings.

101 2. Pursuant to § 37.2-608, submit to the governing body of the city or county that established the  
102 authority an annual performance contract for community mental health, developmental, and substance  
103 abuse services for its approval prior to submission of the contract to the Department.

104 3. Within amounts appropriated for this purpose, provide services authorized under the  
105 performance contract.

106 4. In accordance with its approved performance contract, enter into contracts with other providers  
107 for the delivery of services or operation of facilities.

108           5. Make and enter into all other contracts or agreements as the authority may determine that are  
109 necessary or incidental to the performance of its duties and to the execution of powers granted by this  
110 chapter, including contracts with any federal agency, any subdivision or instrumentality of the  
111 Commonwealth, behavioral health providers, insurers, and managed care or health care networks on such  
112 terms and conditions as the authority may approve.

113           6. Make policies or regulations concerning the delivery of services and operation of facilities under  
114 its direction or supervision, subject to applicable policies and regulations adopted by the Board.

115           7. Appoint a chief executive officer of the behavioral health authority, who meets the minimum  
116 qualifications established by the Department, and prescribe his duties. The compensation of the chief  
117 executive officer shall be fixed by the authority within the amounts made available by appropriation for  
118 this purpose. The chief executive officer shall serve at the pleasure of the authority's board of directors  
119 and be employed under an annually renewable contract that contains performance objectives and  
120 evaluation criteria. The Department shall approve the selection of the chief executive officer for adherence  
121 to minimum qualifications established by the Department and the salary range of the chief executive  
122 officer.

123           8. Authorize the chief executive officer to maintain a complement of professional staff to operate  
124 the behavioral health authority's service delivery system.

125           9. Prescribe a reasonable schedule of fees for services provided by personnel or facilities under the  
126 jurisdiction or supervision of the authority and establish procedures for the collection of those fees. All  
127 fees collected shall be included in the performance contract submitted to the local governing body pursuant  
128 to subdivision 2 and § 37.2-608 and shall be used only for community mental health, developmental, and  
129 substance abuse services purposes. Every authority shall institute a reimbursement system to maximize  
130 the collection of fees from individuals receiving services under the jurisdiction or supervision of the  
131 authority, consistent with the provisions of § 37.2-612, and from responsible third party payors.  
132 Authorities shall not attempt to bill or collect fees for time spent participating in commitment hearings for  
133 involuntary admissions pursuant to Article 5 (§ 37.2-814 et seq.) of Chapter 8.

134 10. Accept or refuse gifts, donations, bequests, or grants of money or property or other assistance  
135 from the federal government, the Commonwealth, any municipality thereof, or any other sources, public  
136 or private; utilize them to carry out any of its purposes; and enter into any agreement or contract regarding  
137 or relating to the acceptance, use, or repayment of any such grant or assistance.

138 11. Seek and accept funds through federal grants. In accepting federal grants, the authority shall  
139 not bind the governing body of the city or county that established it to any expenditures or conditions of  
140 acceptance without the prior approval of that governing body.

141 12. Notwithstanding any provision of law to the contrary, disburse funds appropriated to it in  
142 accordance with applicable regulations.

143 13. Apply for and accept loans in accordance with regulations established by the board of directors.

144 14. Develop joint written agreements, consistent with policies adopted by the Board, with local  
145 school divisions; health departments; local boards of social services; housing agencies, where they exist;  
146 courts; sheriffs; area agencies on aging; and regional offices of the Department for Aging and  
147 Rehabilitative Services. The agreements shall specify the services to be provided to individuals. All  
148 participating agencies shall develop and implement the agreements and shall review the agreements  
149 annually.

150 15. Take all necessary and appropriate actions to maximize the involvement and participation of  
151 individuals receiving services and family members of individuals receiving services in policy formulation  
152 and service planning, delivery, and evaluation.

153 16. Institute, singly or in combination with community services boards or other behavioral health  
154 authorities, a dispute resolution mechanism that is approved by the Department and enables individuals  
155 receiving services and family members of individuals receiving services to resolve concerns, issues, or  
156 disagreements about services without adversely affecting their access to or receipt of appropriate types  
157 and amounts of current or future services from the authority.

158 17. Notwithstanding the provisions of § 37.2-400 and regulations adopted thereunder, release data  
159 and information about each individual receiving services to the Department, so long as the Department  
160 implements procedures to protect the confidentiality of that data and information. ~~Every authority shall~~

161 ~~submit data on children and youth in the same manner as community services boards, as set forth in §~~  
162 ~~37.2-507.~~

163 18. Fulfill all other duties and be subject to applicable provisions specified in the Code of Virginia  
164 pertaining to community services boards.

165 19. Make loans and provide other assistance to corporations, partnerships, associations, joint  
166 ventures, or other entities in carrying out any activities authorized by this chapter.

167 20. Transact its business, locate its offices and control, directly or through stock or nonstock  
168 corporations or other entities, facilities that will assist the authority in carrying out the purposes and intent  
169 of this chapter, including without limitations the power to own or operate, directly or indirectly, behavioral  
170 health facilities in its service area.

171 21. Acquire property, real or personal, by purchase, gift, or devise on such terms and conditions  
172 and in such manner as it may deem proper and such rights, easements, or estates therein as may be  
173 necessary for its purposes and sell, lease, and dispose of the same or any portion thereof or interest therein,  
174 whenever it shall become expedient to do so.

175 22. Participate in joint ventures with persons, corporations, partnerships, associations, or other  
176 entities for providing behavioral health care or related services or other activities that the authority may  
177 undertake to the extent that such undertakings assist the authority in carrying out the purposes and intent  
178 of this chapter.

179 23. Conduct or engage in any lawful business, activity, effort, or project that is necessary or  
180 convenient for the purposes of the authority or for the exercise of any of its powers.

181 24. As a public instrumentality, establish and operate its administrative management infrastructure  
182 in whole or in part independent of the local governing body; however, nothing in the chapter precludes  
183 behavioral health authorities from acquiring support services through existing governmental entities.

184 25. Carry out capital improvements and bonding through existing economic or industrial  
185 development authorities.

